



U.S. Department of Justice

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December 4, 2019

BY ECF AND ELECTRONIC MAIL

The Honorable Paul A. Engelmayer
United States District Judge
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *United States v. Daniel Hernandez*, S5 18 Cr. 834 (PAE)

Dear Judge Engelmayer:

In connection with the sentencing of Daniel Hernandez (“Hernandez” or the “defendant”) scheduled for December 18, 2019, the Government respectfully submits this letter, pursuant to Section 5K1.1 of the United States Sentencing Guidelines (the “Guidelines”), to advise the Court that the defendant provided substantial assistance to the Government in this and other investigations. Accordingly, the Government respectfully moves the Court to sentence the defendant in light of 18 U.S.C. § 3553(e) and the factors set forth in Section 5K1.1(a)(1)–(5) of the Guidelines.

Background

Hernandez is an internationally-known rap artist who joined the Nine Trey Gangsta Bloods (“Nine Trey”) in or about November 2017. He joined Nine Trey following the commercial success of one of his songs, “GUMMO,” which portrayed Hernandez along with many other Nine Trey members in the music video. Hernandez has acknowledged that he used Nine Trey to enhance his gangster persona, which in turn, allowed him to promote and sell his music. In exchange, Hernandez helped fund and further promote Nine Trey’s leadership and the gang’s operations. Over the course of the next year, Hernandez and other members of Nine Trey wreaked havoc in New York City by, among other things, committing multiple acts of violence in public places throughout the city.

Hernandez was approached by law enforcement on the evening of Saturday, November 17, 2018, in response to threats made against him that agents intercepted over a Title III wiretap of the cellphone belonging to Jamel Jones, a/k/a “Mel Murda,” who was the highest-ranking member of Nine Trey in the street. While the meeting with law enforcement was primarily meant to offer Hernandez protection, Hernandez (with counsel present) provided some information about the

organization of Nine Trey and identified certain members of Nine Trey. Ultimately, Hernandez declined law enforcement's offer of protection.

Hernandez was arrested in the evening of November 18, 2018 and was ordered detained at his presentment the next day. He proffered with the Government the following morning, admitted to his involvement in Nine Trey, including his participation in an armed robbery in midtown Manhattan, for which he had been charged, and provided information concerning additional acts of violence, some of which had not yet been charged, including: (1) a shooting that took place in "Smurf Village" in Brooklyn on or about July 16, 2018; (2) a July 22, 2018 robbery and kidnapping of Hernandez by Anthony Ellison, a/k/a "Harv" and an individual named "Sha;" (3) the circumstances by which an assault rifle was stored at Hernandez's home; and (4) his ordering of a June 2, 2018 shooting at the W Hotel in Times Square.

Hernandez participated in approximately seven proffers from November 20, 2018 until his guilty plea on January 23, 2019. Based, in part, on his information, the Government was able to charge additional acts of violence and added the following individuals:

1. Ellison for his involvement in the Nine Trey RICO conspiracy; the July 22, 2018 kidnapping and assault with a dangerous weapon; and, the October 24, 2018 slashing of another individual in Brooklyn;
2. Denard Butler, a/k/a "Drama," for his involvement in the Nine Trey RICO conspiracy and his participation in an April 3, 2018 armed robbery in Manhattan;
3. Kintea McKenzie, a/k/a "Kooda B," for his involvement in a June 2, 2018 shooting at the W Hotel in Times Square; and
4. Aljermiah Mack, a/k/a "Nuke," for his involvement in the Nine Trey RICO conspiracy.

In addition, Hernandez provided the Government with critical insight into the structure and organization of Nine Trey, identified the gang's key players, and described acts of violence that he personally witnessed or that he heard about from other Nine Trey members. After Hernandez's cooperation became public in February 2019, several of Hernandez's co-defendants contacted the Government to begin plea discussions.

Hernandez testified over the course of three days in the trial of *United States v. Aljermiah Mack and Anthony Ellison*, S11 18 Cr. 834 (PAE). Among other things, he testified about his membership in Nine Trey, multiple acts of violence that he and others committed on behalf of Nine Trey, his kidnapping and robbery by Ellison, information that he had been told regarding multiple acts of violence that took place on the evening of October 24, 2018, and his other criminal conduct. Given Hernandez's celebrity, his testimony was covered by multiple media outlets and, in fact, portions of his testimony were surreptitiously recorded and disseminated on the internet. Hernandez testified in the face of threats of safety to him and his family. Indeed, prior to his cooperation being made public, he relocated his family. In addition, extra security precautions were taken to transport Hernandez to and from Court.

For all of these reasons, and as further detailed below, the Government submits that Hernandez has provided substantial assistance and should be sentenced in light of 18 U.S.C. § 3553(e) and the factors set forth in Section 5K1.1(a)(1)–(5) of the Guidelines.

Personal History and Criminal Conduct

Born on May 8, 1996, Hernandez was raised in the Bushwick neighborhood of Brooklyn by his mother and step-father. Hernandez's biological father abandoned Hernandez when Hernandez was an infant. He has one older brother and a half-sister. When Hernandez was 13, his step-father was murdered. Hernandez had a close relationship with his step-father, and the murder had a devastating impact on Hernandez's life and emotional health in the years that followed.

Hernandez stayed in school until the 10th grade, when he dropped out of school and started working at restaurants as a busboy, porter, and/or delivery boy to help his mother pay the rent for their apartment. Hernandez's brother sold marijuana, and Hernandez occasionally would help him sell marijuana to make extra money. Hernandez recalled that his mother's apartment was searched one day because he thought his brother may have sold marijuana and pills to an undercover officer. On one occasion (while still a minor), Hernandez bought a bundle of heroin from a local heroin addict and tried to sell it. He was caught the same day and was ordered to perform five days of community service.

By the time he was 15 or 16, Hernandez worked at a deli near his home. He also sold clothes that had the word "SCUM"¹ and the number "69" all over them. While working at the deli, he encountered an individual ("Individual-1") who encouraged Hernandez to make music. When Hernandez was 18, he was arrested for posting a video of a minor performing a sex act. After spending two months in jail before posting bail, Hernandez began releasing music videos with Individual-1's help. Hernandez's music developed a niche following, particularly in Eastern Europe. Hernandez toured in Eastern Europe, though he did not make much money from doing so. After his fourth video, he separated from Individual-1. As retaliation, Individual-1 posted videos to social media about Hernandez's arrest.

Prior to joining Nine Trey in or about November 2017, Hernandez had never joined a gang. Hernandez had hung out with a rap artist, who Hernandez believed was a member of the Crips. Hernandez proffered that, at times, he portrayed himself as a Crip, but he was never initiated.

In September 2017, Hernandez was in Brooklyn to film a music video – "GUMMO." Prior to that, Hernandez met a Nine Trey member known as "Sequo Billy." Sequo Billy introduced Hernandez to Kifano Jordan, a/k/a "Shotti," whom Sequo Billy referred to as the "Big Homie" in Nine Trey. Hernandez said that he wanted to film a music video, and Jordan told Hernandez to buy pizza and Hennessy and that Jordan would call more people to show up. Additional people did show up, and in proffers, Hernandez identified many of them as Nine Trey members. The music video went viral and launched Hernandez's music career.

¹ Hernandez has explained that "SCUM" is an acronym for "Society Can't Understand Me."

A. Offense Conduct – Nine Trey

Following the commercial success of “GUMMO,” Hernandez became a member of Nine Trey. Hernandez did not have to undergo any type of initiation – *i.e.*, to “shoot 31” (getting assaulted by other Nine Trey members for 31 seconds), or to “put in work” (meaning to deal drugs or assault someone else) – and instead was directed to continue to perform in order to make money for the gang. Soon after Hernandez became a member of Nine Trey, he personally participated in a number of violent acts with other Nine Trey members over the course of the next year, as detailed below.²

November 2017 Assault (Trial Tr. 282–87)

After the release of GUMMO, Hernandez had a number of disputes on social media platforms with other rap artists that turned violent, the first of which was with Michael Lamar White IV, a/k/a “Trippie Redd.” In November 2017, White was in New York City. Hernandez, Kifano Jordan, and two others traveled in one car, while Anthony Ellison, a/k/a “Harv” and four others traveled in another car to the hotel where White was staying. Ellison, Jordan, and two others got out of the car and ran into the hotel, where they claimed to have assaulted White and his crew.

March 20, 2018 Shooting in Times Square (Trial Tr. 356–59)

On or about March 20, 2018, Hernandez and other members of Nine Trey – including Jordan – were trying to locate an individual Hernandez knew as “Frenchie BSM,” who was a Piru Blood member protecting White. According to Hernandez, Frenchie BSM was violating the rules by providing protection to White without first “checking in” with Nine Trey. In retaliation, Jordan, Hernandez, and others planned to shoot at Frenchie BSM.

On the day of the shooting, Hernandez was in one car with Denard Butler, a/k/a “Drama,” and another individual, and waited outside Quad Studios near Times Square. Jordan and another individual were in another car. They waited for Frenchie BSM until he exited the building and entered a Sprinter van, whereupon Hernandez’s car pulled in front of the Sprinter van, while Jordan’s car pulled alongside the Sprinter van. While stopped at a red light, Jordan fired approximately five bullets into the Sprinter van. No one was hit during the shooting.

April 3, 2018 Robbery (Trial Tr. 360–71)

Hernandez and other members of Nine Trey, including Jordan, were in a dispute with a Houston-based music management group. Hernandez and others received word that music artists managed by the rival group were recording an interview in a building in Times Square. Hernandez, Jordan, Walter, and Hernandez’s driver, Jorge Rivera, arrived in Times Square from Brooklyn in one vehicle. Roland Martin, a/k/a “Ro Murda,” Jesnel Butler, “a/k/a “Ish,” Denard Butler, and another individual arrived in another car. As the music artists entered the lobby, Jordan (who was

² Hernandez gave detailed testimony at the trial of Ellison and Mack regarding the acts of violence that he personally participated in with other Nine Trey members.

carrying a pistol), Walter, Martin, Denard Butler, and another individual robbed the musicians at gunpoint, taking their jewelry and a backpack.

Hernandez filmed the robbery from the backseat of the car and sent it to one of his media contacts so that the video would be publicized. While attempting to flee from the robbery, Hernandez's car got caught in traffic. Jordan handed Hernandez Jordan's gun and ordered Hernandez to get out of the car. Hernandez and Walter exited the car and headed into a nearby subway station. As Hernandez and Walter were waiting for a train, Hernandez provided the gun to Walter, at Walter's instruction. In the days that followed the robbery, Jordan put the backpack in Hernandez's apartment. The backpack was recovered after a search warrant was executed at Hernandez's residence in September 2018.

April 21, 2018 Shooting in Brooklyn (Trial Tr. 402–08)

In the afternoon of April 21, 2018, Hernandez, Jordan, Rivera, and another woman walked out of a restaurant and were confronted by two individuals in a car who yelled "Fuck 69." Jordan took out a gun, opened the door to the car and punched one of the individuals in the face. Hernandez, Jordan, Rivera, and the woman got in Rivera's car and drove away. The two individuals followed. As they were driving down a one-way street, Jordan got out of the car and shot at the trailing vehicle.

April 21, 2018 Shooting at the Barclays Center (Trial Tr. 408–21)

Hernandez and Caswell Senior, a/k/a "Casanova," another rap artist and gang member, were in a public feud. Hernandez was scheduled to perform the entrance song for a boxer at a fight held in the Barclay's Center on the evening of April 21, 2018. Hernandez arrived at the event with several members of Nine Trey, including Fuguan Lovick, a/k/a "Fu Banga." Hernandez understood Lovick to be under (*i.e.*, subordinate to) Roland Martin and understood him to be a person that usually carried a gun. While inside the Barclays Center, Hernandez's group encountered Senior's crew in a hallway and a physical altercation ensued. Then, Hernandez said that he heard a shot and he ran away. Security footage from the Barclays Center shows Lovick making a Nine Trey hand sign toward Senior's group after the shooting. Later that night, Jordan told Hernandez that Jordan told Lovick to "let it go," which Hernandez understood to mean that Jordan told Lovick to shoot the gun.

June 2, 2018 Shooting at the W Hotel in Times Square (Trial Tr. 426–29)

Hernandez was in another dispute with a rival rapper and gang member named Keith Cozart, a/k/a "Chief Keef," who was from Chicago. Hernandez learned that Cozart was in New York City. Hernandez, who was in Los Angeles, spoke to Kintea McKenzie, a/k/a "Kooda B," prior to the shooting and offered him \$20,000 to shoot at Cozart. Hernandez said that McKenzie should shoot in the direction of Cozart in order to scare him, but that he should not hit him. McKenzie recruited others to help him, and one of those individuals shot in the direction of Cozart. The day after the shooting, Hernandez returned to New York, and with Jordan, he met with McKenzie and two others, whom Hernandez did not know, at an apartment in Brooklyn. There,

Hernandez counted out \$10,000 in cash and gave it to Jordan, who in turn, counted out the cash and gave it to McKenzie.

July 16, 2018 Shooting (Trial Tr. 429–31)

On or about July 16, 2018, Hernandez was in Los Angeles with Rivera, and received a call from Jordan, who told Hernandez that another member of Nine Trey, Adonijah Fields, a/k/a “Billy Ado,” with whom they were in a dispute, was live-streaming on Instagram from “Smurf Village” in Brooklyn (a public housing development). Jordan told Hernandez, in sum and substance “I got something for this n****,” and that Jordan was going to “make it hot,” which Hernandez understood to mean that Jordan was going to have someone shoot at Fields. Hernandez was not sure who shot at Fields, but Hernandez knew that a shooting took place and that a woman was hit in the foot. The investigation, including records maintained by the NYPD, confirmed that on July 16, 2018, a female complainant was struck in the foot by a stray bullet while in the vicinity of Smurf Village.

Retaliation for the July 22, 2018 Kidnapping and Robbery (Trial Tr. 467–68; 545)

Hernandez was robbed by Anthony Ellison, a/k/a “Harv,” on or about July 22, 2018. After the robbery, Jordan and Jones brought an assault rifle to Hernandez’s apartment on Kingston Avenue. The assault rifle was purportedly to be used for protection given the ongoing, intra-gang rivalry with Ellison. Hernandez said the assault rifle stayed in his apartment until law enforcement recovered the firearm in late September 2018 after executing a search warrant.

After the robbery, Hernandez also told Jordan that Hernandez would be willing to give a “50 pack,” *i.e.*, \$50,000, to anyone who “got” Ellison.

Several months after the robbery, Hernandez spoke to other Nine Trey members, including Jordan and an individual Hernandez knows as “Gunz,” who updated Hernandez about acts of violence against Ellison and those affiliated with Ellison. Gunz and Jordan told Hernandez that Gunz and another person known to Hernandez as “Pablo” shot at Ellison near Smurf Village in Brooklyn. Hernandez said that this was not related to his \$50,000 offer, but instead was the result of internal gang strife, as Jordan had been given the High 020 position (the second-highest position in the street) and took over Smurf Village from Ellison. Hernandez never paid anyone \$50,000 for shooting at Ellison, nor did Gunz, Pablo or anyone else ever ask Hernandez for payment.

Firearms

On one occasion, Jordan told Hernandez to pay Fields \$200–\$300 to have Fields bring guns from Atlanta to New York. Hernandez paid Fields the \$200 or \$300, and he recalled Fields brought two or three pistols/revolvers from Atlanta on a bus. Hernandez does not know what happened to the firearms.

B. Other Criminal Conduct

In addition to the crimes he committed with Nine Trey, Hernandez detailed the below criminal conduct in his proffers with the Government.

Use of a Minor in a Sexual Performance

When Hernandez was 18 years old, he met up with two others and went to an apartment in Harlem. Hernandez described the apartment as a “trap house” filled with drug dealers and users. One of the people that Hernandez went to the apartment with called a girl to come to the apartment. Hernandez filmed the two people he went to the apartment with having sex with the girl, who was 13 years old at the time. Hernandez was also in the video standing behind the girl while she performed sex acts on the others. Hernandez posted the video on his Instagram page. A few days later, Hernandez was arrested for this conduct and spent approximately two months in jail. Hernandez eventually pleaded guilty pursuant to a plea agreement to one count of Use of a Child Less Than 17 Years of Age in a Sexual Performance, in violation of New York Penal Law § 263.05. He was ultimately sentenced to four years’ probation – though the sentence was changed to time-served after his arrest in this case.

Narcotics Trafficking (Trial Tr. 557–58)

When Hernandez was younger, he occasionally sold marijuana. On one occasion, he bought approximately five glassines of heroin and tried to sell it, but was caught.

In or about October or November 2017 (just before his music career took off) he helped broker a one-kilogram heroin deal between a Nine Trey member known to Hernandez as “Pac Man BBA,” and another male known to Hernandez as “Jazz.” Hernandez said that he knew Jazz and offered to connect him with Pac Man BBA. Pac Man BBA sold a brick of heroin to Jazz for \$46,000. Pac Man BBA gave the brick to another individual – “Trav” – who left it with Hernandez. Hernandez gave the \$46,000 to Trav, but took \$2,000 for himself as his cut for brokering the deal. Hernandez then gave the heroin to Jazz. Hernandez said that he sent the \$2,000 to the mother of an individual named Peter to use for bail money for Peter, who had been arrested in possession of Jazz’s drugs.

February 21, 2018 Fight at Los Angeles Airport (Trial Tr. 303–04)

Hernandez was involved in a brawl at Los Angeles airport in February 2018. Hernandez said that he was with Ellison, Fields, and Sequoia Billy and got into a fight with people from the Houston-based music management group referenced above.

Assault near Times Square (Trial Tr. 558)

Around the time Martin was released from prison (in approximately February 2018), Hernandez punched a bouncer at a club on 42nd Street. Hernandez said that the reason for the fight was because he and Martin could not get into a club.

Domestic Violence

[REDACTED]

[REDACTED]

Other Arrests

Hernandez disclosed other arrests, including for assaulting a 16-year-old male in Houston, and another for squeezing the hand of a police officer. With respect to the Houston arrest, Hernandez said that the individual called Hernandez names while filming Hernandez. Hernandez said that he grabbed the individual by the individual's jacket, which caused the zipper to scratch the individual's neck. Hernandez said that he told the individual to erase the video.

Hernandez said that when he was arrested at the airport due to a Houston warrant, the police officer said that Hernandez forcibly squeezed the officer's hand. Hernandez denies using force against the officer.

Section 5K1.1 Factors

As detailed below, Hernandez's cooperation was extraordinary. He is a famous rap artist and was a high-profile member of a violent gang. In the face of threats made against him and his family, Hernandez decided to cooperate against his co-defendants and testify publicly in a trial that was widely publicized.

Section 5K1.1 of the Guidelines sets forth five non-exclusive factors that sentencing courts are encouraged to consider in determining the appropriate sentencing reduction for a defendant who has rendered substantial assistance. *See* U.S.S.G. § 5K1.1(a). The application of each of those factors to Hernandez's cooperation is set forth below.

1. "[S]ignificance and usefulness of the defendant's assistance" (§ 5K1.1(a)(1))

The defendant's assistance was both incredibly significant and extremely useful. The defendant provided an insider's view of Nine Trey and a first-hand account of many acts of violence that the Government otherwise did not have. He provided critical and detailed insight into the organization and structure of Nine Trey, its members and leaders, and the acts of violence

committed by the gang. In addition to providing significant information about the crimes charged in the original indictment, he also gave extensive information – corroborated by other sources – about other acts of violence that were not charged in the original indictment. Based in large part on his information, the Government was able to charge additional defendants and additional crimes. For example, as described above, the Government was able to charge Ellison,³ Denard Butler, McKenzie, and Mack, none of whom the Government was in a position to charge before the defendant cooperated.

In the course of his proffers, the defendant also assisted the Government's review of other evidence, including social media posts, text messages, and recorded prison calls. The defendant walked the Government through his social media account (which was quite voluminous) and located pertinent messages and videos and provided context to those messages. The defendant reviewed thousands of pages of text messages from his cellphone and identified text messages between himself and other members of Nine Trey, provided context to those messages, and decoded certain words and phrases that were used in the messages. With respect to surveillance video, the defendant identified individuals depicted in those videos and described what happened before, during, and after what was captured on video. Finally, the defendant identified individuals' voices in recorded calls, provided context for what was being discussed in those calls, and interpreted certain words or phrases used by the participants in those calls.



Hernandez's assistance continued as the Government began plea discussions with several of the defendants. Hernandez's guilty plea was unsealed on February 1, 2019, and afterwards, the Government was engaged in plea negotiations with nearly all of the other defendants. Indeed, only one co-defendant filed a pretrial motion, and that motion was withdrawn because that co-defendant ultimately decided to plead guilty. The weight of the evidence, coupled with the knowledge that Hernandez was ready, willing, and able to testify to describe the acts of violence and how they were related to Nine Trey, were significant factors in the co-defendants' decisions to plead guilty. Unlike in other cases, the fact that Hernandez's cooperation was public well in advance of trial let his co-defendants know for certain that Hernandez would be testifying against them should they decide to proceed to trial. This was incredibly significant from the Government's perspective in reaching pre-trial dispositions with nearly all of Hernandez's co-defendants.

Finally, and most significantly, the defendant testified at the trial of Mack and Ellison. The defendant prepared extensively with the Government, understood the risks posed to his safety from

³ Ellison was charged with Hobbs Act robbery for the July 22, 2018 robbery of Hernandez, *see United States v. Ellison*, 18 Cr. 803 (PGG), but Hernandez's information allowed the Government to charge Ellison in the Nine Trey racketeering conspiracy and to charge the kidnapping and robbery as violent crimes in aid of racketeering. In addition, Hernandez provided information regarding the October 24 slashing, which allowed the Government to investigate the slashing further and ultimately charge it as an additional violent crime in aid of racketeering.

testifying, and remained ready, willing, and able to testify at the trial. Over the course of three trial days, the defendant provided the jury with an insider's view of the gang, testifying about the structure, its rules, its members and leaders, and the acts of violence engaged in by its members. He walked the jury through text messages, social media messages, and surveillance video. He identified voices on recorded prison calls, and he explained to the jury what certain words and phrases meant in the calls and in the messages. The defendant also recounted the harrowing details of the night when Ellison kidnapped and robbed him. The defendant further testified in detail about his own criminal history. The jury returned guilty verdicts against both trial defendants. In particular, the jury convicted Mack for participating in the Nine Trey racketeering conspiracy and a narcotics conspiracy. The jury convicted Ellison of participating in the Nine Trey racketeering conspiracy, for kidnapping Hernandez, and for the slashing of another individual.

2. “[T]ruthfulness, completeness, and reliability” of the defendant’s information and testimony (§ 5K1.1(a)(2))

The defendant has been truthful with the Government from the outset of his cooperation. From his first proffer, the defendant was forthcoming both about the conduct for which he had been charged, as well as uncharged conduct, including conduct with Nine Trey and his other criminal activity. The information he has provided has been corroborated by other evidence developed during the investigation, including information provided by other cooperating witnesses and independent evidence developed by the Government.

In addition, based on the verdict, the jury credited the defendant’s testimony with respect to the July 22, 2018 kidnapping and robbery. The defense theory was that the kidnapping and robbery was a hoax orchestrated by the defendant to promote sales of his music. As such, the jury could not have convicted Ellison without crediting Hernandez’s testimony. The jury also clearly credited Hernandez’s testimony that both Ellison and Mack were members of Nine Trey.

3. “[N]ature and extent of the defendant’s assistance” (§ 5K1.1(a)(3))

As detailed herein, the defendant provided extensive assistance in this case [REDACTED], including seven substantive proffer sessions with the Government prior to his guilty plea, and approximately 26 meetings between his arrest and trial. The defendant’s information helped the Government investigate, charge, and earn convictions for additional crimes and defendants. In particular, Hernandez was a key witness at the trial of Ellison and Mack. His truthful testimony helped secure convictions against Ellison and Mack, two of the highest-ranking members of Nine Trey, and in the Government’s view, two of the most culpable defendants charged in this case.

4. “[I]njury suffered, or any danger or risk of injury to the defendant or his family resulting from his assistance” (§ 5K1.1(a)(4))

The defendant’s cooperation has come at great risk to his and his family’s safety, in ways far more significant than in other cases. Nine Trey is one of the most violent sets of the United Bloods Nation, claiming members throughout the country. Prior to his cooperation becoming public, the defendant relocated his family. The defendant was moved to a different prison facility

and has been placed in a particular unit without any other gang members. His movements have been limited so as to avoid potential contact with other gang members. In addition, extra precautions were taken to transport him to and from court during his testimony.

The defendant's cooperation and his testimony were widely covered by many media outlets. Other gang members and those in the rap industry have criticized him for cooperating and have openly questioned whether the defendant's safety could ever be guaranteed.

There is no question that the defendant's life will never be the same because of his cooperation in this case. He and his family will have to take extra safety precautions when being in public so as to avoid potential reprisals from others.

5. "[T]imeliness of the defendant's assistance" (§ 5K1.1(a)(5))

The defendant's cooperation could not have been timelier. He provided information to law enforcement when they approached him on November 17, 2018 to discuss the threats made against him. He was arrested in the evening on November 18, was presented on the evening of November 19, and met with the Government on November 20. During proffers with the Government, the defendant provided information in a timely fashion, allowing the Government to investigate and charge additional crimes and defendants. Absent the defendant's cooperation, the Government would not have been able to charge Denard Butler, Kintea McKenzie, Ellison, or Mack in the racketeering conspiracy and crimes in furtherance of the Nine Trey racketeering conspiracy. Finally, the defendant's timely assistance allowed the Government to prepare for trial and pursue dispositions, ultimately resulting in convictions for all defendants.

Conclusion

In light of the facts set forth above, and assuming that the defendant continues to comply with the terms of his cooperation agreement, the Government intends to request at sentencing that the Court sentence the defendant in light of 18 U.S.C. § 3553(e) and the factors set forth in Section 5K1.1 of the Guidelines.

Respectfully submitted,

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